

City Code

Chapter 6

Animals and Fowl

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Article 1. General Conditions

Sec. 6-1. Definitions.

The definitions in this Section shall apply when these words and phrases are used in this Chapter.

(1) ***Animal Control Officer***. A person or agency designated by the City Manager as responsible for the animal control operations in the City.

(2) ***At Large***. Off the premises of the owner and not restrained by the owner, a member of the owner's family, or a person designated by the owner.

(3) ***Bees***. An insect of a large group of honeybees, who collects pollen and nectar.

(4) ***Cat***. A domesticated feline animal including both male and female.

(5) ***City***. Area within the corporate limits of the City of New Brighton.

(6) ***City Manager***. The City Manager or the City Manager's designee.

(7) ***Coop***. A cage or pen used to confine fowl.

(8) ***Dangerous dog***. Any dog that has:

- a. without provocation, inflicted substantial bodily harm on a human being on public or private property;
- b. killed a domestic animal without provocation while off the owner's property;
- c. been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals; or
- d. been determined to be a dangerous dog by the City or any other governmental jurisdiction.

(9) ***Dog***. A domesticated canine animal including both male and female.

(10) **Fowl.** All domesticated barnyard and water birds including, but not limited to, chickens, turkeys, ducks, and geese.

(11) **Great bodily harm.** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

(12) **Kennel.** Any place where more than three dogs or more than three cats or any combination of more than three cats and dogs are kept on the same premises except for a litter of kittens or pups which may be kept for six months after birth.

(13) **Large Animal.** Horses, donkeys, cows, bulls and other similar sized domesticated animals.

(14) **Owner.** A person, firm, corporation, organization, or department who owns, harbors, or has custody of an animal in the City.

(15) **Potentially dangerous dog.** Any dog that:

- a. when unprovoked, inflicted a bite on a human being or domestic animal on public or private property;
- b. when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack;
- c. has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals; or
- d. has been determined to be a potentially dangerous dog by any other governmental jurisdiction.

(16) **Proper Enclosure.** To be securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

(17) **Provocation.** An act that an adult could reasonably expect may cause a dog to attack or bite

(18) **Restrained.** Being effectively controlled by leash or tether, or by a fence or other means on an owner's premises.

(19) **Substantial Bodily Harm.** A temporary but substantial disfigurement or a temporary but substantial loss or impairment of the functions of any bodily member or organ, or a fracture of any bodily member.

(20) **Vicious Animal.** An animal, except a dog, of a ferocious or vicious character, habit, or disposition, or any animal that has:

- A. Inflicted substantial bodily harm on a human being without provocation-;
- B. Killed a domestic animal without provocation-; or
- C. Been involved in one or more unprovoked biting incidents involving humans or domestic animals within 12 months-; except that

D. An animal is not a Vicious Animal if the biting incident occurred while the animal was protecting its owner's property from trespassing. (Code 1966; Ord. No. 319, 6-12-73; Ord. No. 344, 11-26-74; Ord. No. 368, 4-27-76; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001, Ord No. 800, 5-10-2011; Ord 834, 5-26-2015)

Sec. 6-2. Diseased Animal.

No person shall keep, suffer to be kept, or permit any diseased animal on premises occupied by that person or permit such an animal to run at large. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Sec. 6-3. Vicious Animal.

No person shall keep, suffer to be kept, or permit any vicious animal on premises occupied by that person or permit such an animal to run at large. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Sec. 6-3.1. Humane Disposal.

In addition to the imposition of a sentence, the Court may upon conviction for violation of Section 6-2 or Section 6-3 direct the Animal Control Officer to take the animal into custody and cause its humane disposal. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Sec. 6-4. Cruelty to Animals.

No person shall inhumanely, unnecessarily, cruelly, or wantonly beat, injure, torment, or otherwise abuse an animal or cause or permit an animal fight. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Sec. 6-5. Keeping of a Kennel.

No person shall maintain a kennel except in compliance with the provisions of the Zoning Code. (Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Secs. 6-6--6-15. Reserved.

Article 2. Dogs and Cats

Sec. 6-16. Running at Large Prohibited

It shall be unlawful for any owner to allow its dog to run at large.

(Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 628, 2-5-97; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-16.1 Citation Issued.

(1) No citation will be issued by the City for violation of Section 6-16 unless it is shown to the Animal Control Officer that an individual, or someone acting on their behalf, has given notice to the Owner of the animal that the animal has been at large on at least one prior occasion or unless the Animal Control Officer observes the animal at large.

(2) The Animal Control Officer may capture and impound any dog running at large.

(Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 628, 2-5-97; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-17. Cleanup.

A person having custody or control of a dog or cat shall:

(1) Not permit the animal to be on public property or the property of another without having in their immediate possession a device for the collection and removal of feces and a container for the transport of the feces to a proper receptacle.

(2) Remove feces left by an animal on public property or the property of another to a proper receptacle located on the custodian's property or that of the animal's owner except that droppings in a park may be placed in an outside park trash container.

The provisions of this Section shall not apply to a guide dog accompanying a blind person or to a person with dogs engaged in search or rescue activities. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Sec. 6-18. Howling and Barking.

No person shall own, keep, have in their possession, or harbor any dog which by frequent and habitual howling, yelping, barking or otherwise shall cause serious annoyance or disturbance to persons or to the neighborhood. The provisions of this Section shall not apply to duly authorized hospitals or clinics conducted for the treatment of small animals. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 575, 3-13-90; Ord. 628, 2-5-97; Code of 2001)

Sec. 6-19. Damage to Property, Crying, and Mewing.

It shall be unlawful for a person to own, keep, have in their possession, or harbor a cat which damages property, plantings, or structures, or which scratches or bites people while at large or which habitually cries or mews to the reasonable annoyance of another. (Code 1966; Ord. No. 319, 6-12-73; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Secs. 6-20--6-48. Reserved.

Article 3. Vaccination

Secs. 6-49. Vaccination Required.

No person shall keep or maintain a dog or cat older than six months of age unless the animal has been vaccinated with an anti-rabies vaccine by a licensed veterinarian. (Ord. No. 575, 3-13-90; Ord. 628, 2-5-97; Code of 2001)

Sec. 6-50. Vaccination Tags.

Vaccination tags shall be used in accordance with this Section.

(1) The owner shall cause a rabies vaccination tag to be affixed permanently by a metal fastening device to the collar of the dog or cat in such a manner that the tag may be easily observed.

(2) No person shall counterfeit or attempt to counterfeit the dog or cat rabies vaccination tags.

(3) No person shall transfer a dog or cat rabies vaccination tag from one animal to another. (Code 1966; Ord. No. 319, 6-12-73; Code of 1988; Ord. No. 575, 3-13-90; Ord. 628, 2-5-97; Code of 2001)

Secs. 6-51--6-91. Reserved.

Article 4. Impoundment

Secs. 6-92--6-97. Reserved.

Sec. 6-98. Payment of Fee.

Any animal impounded by the City may be redeemed by the owner or keeper by payment of the impoundment fee, boarding charge, and veterinary service charge. (Code 1966; Ord. No. 319, 6-12-73; Ord. No. 344, 11-26-74; Code of 1988; Ord. No. 575, 3-13-90; Ord. No. 628, 2-5-97; Code of 2001)

Sec. 6-99. Disposition of Unredeemed Animals.

(1) An animal shall be redeemed within five days after being impounded. This time period for redemption shall not include Sundays or legal holidays. An animal that is not redeemed may be sold, destroyed, or otherwise disposed of in the following manner:

A. If not requested by a licensed education or scientific institution under Minnesota Statutes, Section 35.71, the animal may be sold for not less than the amount required by Section 6-98 to anyone desiring to purchase an animal.

B. Disposed of in a humane manner

(2) This section does not apply to a dangerous or potentially dangerous dog.

(Code 1966; Ord. No. 319, 6-12-73; Ord. No. 344, 11-26-74; Code of 1988; Ord. 628, 2-5-97; Code of 2001, Ord No. 800, 5-10-2011))

Secs. 6-100--6-110. Reserved.

Article 5. Rabies Control

Sec. 6-111. Exemptions.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Article except where expressly stated. (Code 1966; Code of 1988; Code of 2001)

Sec. 6-112. Quarantine of Suspected Animal.

An animal which bites or scratches a person or which otherwise gives symptoms of having rabies shall be immediately reported to the City and:

- (1) Quarantined for a period of ten days and shall not be released except by written permission of the City.
- (2) At the discretion of the City, the quarantine may be on the premises of the owner, at the pound, or at the owner's option and expense in a veterinary hospital of their choosing.
- (3) The quarantine shall be at the pound in the case of a stray animal or for an animal whose ownership is not known. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Code of 2001)

Sec. 6-113. Duty of Owner to Surrender Animal.

Upon demand of the City, the owner shall immediately surrender an animal for supervised quarantine which has bitten a human or which is suspected of having been exposed to rabies. The owner shall be responsible for the expense of the quarantine. Upon payment of fees and expenses set by the City Council, the animal may be reclaimed by the owner if it is adjudged free of rabies. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Code of 2001)

Sec. 6-114. Disposition of Dead Rabid Animal.

When rabies has been diagnosed in an animal under quarantine or rabies suspected by a licensed veterinarian and the animal dies while under such observation, the Animal Control Officer shall immediately cause the head of the animal to be sent to the State Health Department for pathological examination and shall notify the proper public health officials of reports of human contacts and the diagnosis.

(Code 1966; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-115. Area-Wide Quarantine.

When the report indicates a positive diagnosis of rabies, the Mayor may order an area-wide quarantine for a period of sixty days. Upon invoking a quarantine, no pet animal shall be taken into the streets or permitted to be in the streets. Further, during the quarantine, permission from the City shall be required to take or ship an animal from the City. (Code 1966; Ord. No. 344, 11-26-74; Code of 1988; Code of 2001)

Sec. 6-116. Vaccinations During a Quarantine.

During the area-wide quarantine period and as long afterward as deemed necessary to prevent the spread of rabies, the City may require that:

- (1) All dogs, three months of age or older, shall be vaccinated against rabies.
- (2) During the quarantine period, the City is empowered to provide for a program of mass immunization by the establishment of temporary emergency canine rabies vaccination clinics strategically located throughout the quarantine area.

(Code 1966; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-117. Redemption of Strays Restricted.

No animal that has been impounded by reason of being a stray or unclaimed by its owner, shall be allowed to be adopted from any animal shelter during the period of a rabies emergency quarantine except by special authorization of the Animal Control Officer.

(Code 1966; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-118. Destruction, Isolation of Bitten Animals.

Animals bitten by a known rabid animal shall be immediately destroyed or if the owner is unwilling to destroy the exposed animal, strict isolation of the animal in a kennel as designated by the Animal Control Officer shall be required for 30 days.

(Code 1966; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-119. Extension of Quarantine.

If additional cases of rabies occur during the period of area-wide quarantine, the quarantine may be extended for an additional period of time. (Code 1966; Code of 1988; Code of 2001)

Sec. 6-120. Destruction, Removal of Rabid Animals.

No person shall:

- (1) Kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human except as provided in this Article.
- (2) Remove such animal from the City without written permission from the City. (Code 1966; Code of 1988; Code of 2001)

Sec. 6-121. Surrender of Carcass.

The carcass of a dead animal exposed to rabies shall upon demand be surrendered to the City. (Code 1966; Code of 1988; Code of 2001)

Sec. 6-122. Report of Bite Cases.

It shall be the duty of every physician or other medical practitioner to report to the City the names and addresses of persons treated for bites which have been inflicted by animals together with such other information as will be helpful in rabies control. (Code 1966; Code of 1988; Code of 2001)

Sec. 6-123. Failure to Obey.

No person shall fail or refuse to surrender an animal for quarantine or destruction as required herein when demand is made for the animal by the Animal Control Officer.
(Code 1966; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-124. Report of Suspected Cases.

It shall be the duty of every licensed veterinarian to report to the City any animal considered to be a rabies suspect. (Code 1966; Code of 1988; Code of 2001)

Secs. 6-125--6-129. Reserved.

Article 6. Large Animals

Sec. 6-130. Responsibility of Owner.

The owner of a large animal shall be responsible for the:

- (1) Conduct and control of the animal.
- (2) Care and maintenance of the animal and for the provision of food, water, and shelter in accordance with Minnesota Statutes, Section -343.20 through 343.37.
(Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-131. Use Prohibited in Certain Areas.

No person shall ride, lead, graze, tie up, or drive a large animal:

- (1) Upon public sidewalks.
- (2) In public places, such as shopping centers, parking lots, golf courses, recreation areas, parks, and playgrounds except on designated trails established for this purpose.
- (3) On private property of another without permission of the property owner.
- (4) In an unsafe or careless fashion. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Sec. 6-132. Hours of Use Restricted.

No large animal shall be used on the public streets except during daylight hours. Daylight hours are defined as one-half hour before sunrise until one-half hour after sunset. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Sec. 6-133. Keep to the Right.

Large animals shall be ridden or led in the right lane when on the public street. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Sec. 6-134. Animal Restrained.

Where permitted, large animals shall be thoroughly broken and properly restrained and shall not be allowed to go unattended or hitched to any rock, tree, or shrub in a public park. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Sec. 6-135. Stables and Enclosures.

(1) Large animals shall be stabled or maintained in an area which is:

- A. Fenced in a manner so as to confine the animals, and
- B. An area of at least one-half acre for each animal.

(2) No large animal shall be stabled or maintained in an area closer than 100 feet to the nearest property line without special permission from the City Council. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Sec. 6-136. Special Permit for Stabling.

The City Council may grant a special permit to allow the stabling and maintenance of a large animal in an area closer than 100 feet to the nearest property line upon a finding that Section 6-135 creates an undue hardship and the granting of the permit will not cause undue harm to adjacent property owners.

(Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-137. Registration Fee.

A registration shall be filed with the City and a registration fee shall be paid when a large animal is to be stabled or otherwise maintained in the City for a period longer than ten calendar days. A veterinarian's health certificate shall be required for each animal to be stabled. The certificate must not be more than six months old. The registration fee shall be established by the City Council. (Code 1966; Ord. No. 368, 4-27-76; Ord. No. 387, 3-22-77; Code of 1988; Code of 2001)

Sec. 6-138. Compliance with Regulations.

Any person seeking to stable or otherwise maintain a large animal within the City shall demonstrate compliance with all applicable State Statutes, rules, and regulations promulgated thereunder including the State Pollution Control Agency's regulations for the control of waste from livestock feedlots, poultry lots, and other animal lots. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Sec. 6-139. Exceptions.

The provisions of Sections 6-130 through 6-138 inclusive shall not apply to circuses, carnivals, parades, rodeos or other exhibits which make use of large animals within the City and which otherwise comply with all applicable provisions of the City Code. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Sec. 6-140. Short Term Permit.

A permit must be obtained from the City if any excepted use specified in Section 6-139 is to be housed, displayed, or otherwise operated for seven days or less. The permit shall be conditioned on

- (1) Payment of a permit fee in an amount set by the City Council.
- (2) Payment of a deposit guaranteeing cleanup of all areas used by the large animals. The fee shall be an appropriate sum as determined by the City Council. The deposit shall be returned to the permit holder if the area is satisfactorily cleaned up within two days after its use.
- (3) If in the judgment of the City the area is not adequately cleaned up within the required time limits, then the City shall clean up the area and deduct from the deposit the cost of the cleanup. If the City's cost to clean the area is greater than the deposit, then the permit holder will be required to immediately pay such costs.
- (4) A written statement from the property owner giving permission for the stated use.
- (5) Restricting areas of use so as to reduce the possibility of a nuisance being created. (Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-141. Long Term Permit.

A permit must be obtained if any excepted use specified in Section 6-139 is proposed to be housed, displayed, or otherwise operated within the City for more than seven days. The City Council shall be responsible for issuing the permit and may attach conditions in addition to those specified in Section 6-140 for the purpose of protecting the public health, safety, and welfare.

(Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-142. Additional Conditions.

All permits, whether granted in accordance with Section 6-140 or Section 6-141 shall include these additional conditions:

- (1) The owner or caretaker of large animal shall be responsible for the conduct or control of the animals.
- (2) The owner and caretaker of large animals shall be responsible for the care and maintenance of the animals and the provision of food, water, and shelter in accordance with Minnesota Statutes, Section 343.20 through 343.37, inclusive.

(3) No use of large animals shall create a public nuisance.

(Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001, Ord No. 800, 5-10-2011)

Sec. 6-143. Revocation.

The City Manager shall have the authority to revoke any permit for violation of any permit conditions.

(Code 1966; Ord. No. 368, 4-27-76; Code of 1988; Code of 2001)

Article 7. Potentially Dangerous and Dangerous Dogs

Sec. 6-144. Declaration of Dangerous or Potentially Dangerous Dogs.

(1) Adoption by Reference. Except as otherwise provided in Sections 6-144 to 6-151, the regulatory and procedural provisions of Minn. Stat. § 347.50 to 347.565 are adopted by reference.

(2) Declaration by Police or Animal Control. A public safety officer or Animal Control Officer may declare a dog to be dangerous or potentially dangerous.

(3) Exceptions.

- A. The provisions of Sections 6-144 to 6-151 do not apply to dogs used by law enforcement officials for police work.
- B. Dogs may not be declared dangerous or potentially dangerous if the threat, injury or danger was sustained by a person who was: i) committing a willful trespass or other tort upon the premises occupied by the owner of the dog; ii) provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the dog; or, iii) committing or attempting to commit a crime.

(4) Notice to Owner. If a dog is declared potentially dangerous or dangerous, then the Animal Control Officer will give notice, by delivering or mailing it to the owner of the dog, of intent to declare the dog potentially dangerous or dangerous. Such notice shall inform the owner of this designation, the basis for the designation, the procedures for contesting the designation as described in Section 6-144 (5) (A) and the result of the failure to contest the designation as described in Section 6-144 (5) (B). Upon receipt of notice of intent, the dog owner must immediately comply with the requirements of Section 6-146 and 6-147 and continue to comply with such requirements until the dog is dead or removed from the City, or the City has determined that the dog is not dangerous or potentially dangerous. The owner shall be informed of this requirement in the notice of intent.

(5) Contesting Declaration of Dangerous or Potentially Dangerous Dogs.

- A. If the owner of a dog has received a notice of intent under Section 6-144 (4), the owner may request that a hearing be conducted to determine whether or not such a designation is justified. Such request must be made in writing and delivered to the City Manager within fourteen days of receipt of the notice of intent.
- B. If the owner fails to contest the notice of intent within fourteen days, the owner forfeits the right to a hearing and the declaration of the dog as potentially dangerous or dangerous is final. The City Manager will then issue a declaration to the owner, and the owner must comply with all applicable requirements of this Chapter or cause the dog to be humanely destroyed or removed from the City.

(6) Hearing Procedure. The City Manager will notify the dog owner of the hearing date. The hearing will be held within fourteen days of the request for a hearing. The hearing will be conducted by an impartial hearing officer. The owner may call witnesses and present evidence on his or her behalf. The hearing officer will inform the owner of his or her decision in writing within ten days of the hearing and must state the reasons for the decision.

(7) Effect of Findings. If the hearing officer finds that there is a sufficient basis to declare the dog potentially dangerous or dangerous, the owner must immediately comply with all applicable requirements of Sections 6-144 to 6-147 or immediately cause the dog to be humanely destroyed or removed from the City limits.

(8) Appeal. If the owner of the dog disputes the decision of the hearing officer, the owner may appeal the decision of the hearing officer to the City Council. An appeal to the City Council must be in writing and submitted to the City Manager within fourteen days of the hearing officer's decision. The owner may appeal the decision of the City Council in accordance with procedures under state law.

Sec. 6-145. Review of Declaration.

Beginning six months after notice is given of intent to declare a dog to be potentially dangerous or dangerous, an owner may request annually that the Animal Control Officer review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Animal Control Officer finds sufficient evidence that the dog's behavior has changed, it may rescind the potentially dangerous or dangerous designation.

Sec. 6.146 Registration.

(1) Requirement. No person may own a potentially dangerous or dangerous dog in the City unless the dog is registered as provided in this Section.

(2) Certificate of Registration. The City Manager will issue an annual certificate of registration to the owner of a potentially dangerous or dangerous dog if the owner presents sufficient evidence that:

A. a proper enclosure exists for the dog and all accesses to the premises are posted with clearly visible warning signs issued or approved by the Animal Control Officer, that there is a potentially dangerous or dangerous dog on the property;

B. in the case of a dangerous dog only, a surety bond to be held by the City Clerk has been issued by a surety company authorized to conduct business in this state in a form acceptable to the City Clerk and the City Attorney in the sum of at least \$300,000,

payable to any person injured by the dangerous dog, or a policy of liability insurance has been issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog;

C. the owner has paid the annual registration fee as provided for in this Section; and

D. the owner has had microchip identification implanted in the dangerous dog or potentially dangerous dog as required under Minn. Stat. § 347.515.

(3) **Warning Sign.** If the City issues a certificate of registration to the owner of a potentially dangerous dog or dangerous dog under Section 6-146 (2), the City will provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The City may charge the dog owner a reasonable fee to cover its administrative costs and the costs of the warning symbol.

(4) **Fee.** The City will charge the owner an annual fee to obtain a certificate of registration for a potentially dangerous or dangerous dog.

(5) **Tag.** A potentially dangerous or dangerous dog registered under this Section must have a tag, issued by the City, identifying the dog as potentially dangerous or dangerous. This tag must be affixed to the dog's collar and worn by the dog at all times.

Sec. 6-147. Potentially Dangerous and Dangerous Dogs; Additional Requirements.

(1) **Enclosure and Proper Restraint.** An owner of a potentially dangerous or dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

(2) **Registration Renewal.** An owner of a potentially dangerous or dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the jurisdiction, it must be registered as a potentially dangerous or dangerous dog in its new jurisdiction.

(3) **Death or Transfer.** An owner of a potentially dangerous or dangerous dog must notify the City Manager in writing of the death of the dog or its transfer, and must, if requested by the City Manager, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred. If a dog is designated as dangerous by any other jurisdiction other than the City, it may not be transferred into the City.

(4) Sterilization. The Animal Control Officer shall require a potentially dangerous or dangerous dog to be sterilized at the owner's expense. If the owner does not have the animal sterilized within thirty days, the Animal Control Officer shall have the animal sterilized at the owner's expense.

(5) Rental Property. A person who owns a potentially dangerous or dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a potentially dangerous or dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within fourteen days of City notification if the dog is newly declared as dangerous or potentially dangerous and the owner keeps the dog on the property.

(6) Sale. A person who sells a potentially dangerous or dangerous dog must notify the purchaser that the dog has been declared as potentially dangerous or dangerous. The seller must also notify the City Manager with the new owner's name, address, and telephone number.

Sec. 6-148. Seizure.

(1) Immediate Seizure.

A. The Animal Control Officer or any public safety officer may immediately seize any potentially dangerous or dangerous dog if:

1. after fourteen days after the owner has notice that the dog is potentially dangerous or dangerous, the dog is not registered as required under Section 6-146 and no appeal has been filed;

2. in the case of a dangerous dog, after fourteen days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required under Section 6-146(2) (B);

3. the dog is not maintained in the proper enclosure;

4. the dog is outside the proper enclosure and not under physical restraint of responsible person as required under Section 6-147 (1);

5. after the owner has been notified that the dog is potentially dangerous or dangerous, the dog bites or attacks a person or domestic animal; or

6. the dog is not sterilized within thirty days pursuant to Section 6-147 (4).

B. If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

(2) Reclaimed. A potentially dangerous or dangerous dog seized under Section 6-148(1) may be reclaimed by the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the Animal Control Officer that the requirements of Section 6-146 and Section 6-147 will be met. A dog not reclaimed within seven days of seizure may be disposed of

as provided in Minn. Stat. § 35.71, subdivision 3. The owner is liable to the City for costs incurred in confining and disposing of the dog.

(3) Subsequent Offenses. If a person has been convicted of a misdemeanor for violating a provision of Section 6-146 or 6-147, and the person is charged with a subsequent violation relating to the same dog, the Animal Control Officer must seize the dog. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner is responsible for paying the cost of confining and destroying the animal. If the person is not convicted of the crime for which the dog was seized, the owner may reclaim the dog upon payment to the City of a fee for the care and boarding of the dog. If the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under Minn. Stat. § 35.71, subdivision 3. The owner is liable to the City for the costs incurred in confining, impounding, and disposing of the dog.

(4) Disposition of Seized Dogs.

A. Right to a Hearing. The owner of any seized dog has the right to a hearing before an impartial hearing officer. The notice and hearing requirements in Section 6-144 will apply to a hearing requested under this Section. Any hearing requested under this Section will be held within fourteen days of the request. In the event that the seizure is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog owner. The hearing officer will issue a decision within ten days after the hearing. The decision will be hand-delivered to the dog's owner or delivered via registered mail as soon as practical and a copy will be provided to the Animal Control Officer and City Manager.

B. Security. A person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of seizure.

Sec. 6-149. Restrictions on Dog Ownership.

(1) Dog ownership prohibited. Except as provided in paragraph 3 of this Section, no person may own a dog if the person has:

A. been convicted of a third or subsequent violation of Sections 6-146 or 6-147 or Minn. Stat. § 347.515;

- B. been convicted of 2nd degree manslaughter due to negligent or intentional use of a dog under a violation under Minn. Stat. § 609.205, clause 4;
- C. been convicted of a gross misdemeanor harm caused by a dog under Minn. Stat. § 609.226, subdivision 1;
- D. been convicted of a violation under Minn. Stat. § 609.226, subdivision 2;
- E. had a dog ordered destroyed under Section 6-150 and been convicted of one or more violations of Section 6-146, 6-147, Minn. Stat. §§ 347.515 or 609.226, subdivision 2.

(2) Household members. If any member of a household is prohibited from owning a dog under paragraph 1, unless specifically approved with or without restrictions by the City, no person in the household is permitted to own a dog.

(3) Dog ownership prohibition review. Beginning three years after a conviction under Section 6-149 (1) that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the City Manager that the Animal Control Officer review the prohibition. The Animal Control Officer may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the Animal Control Officer deems appropriate. The Animal Control Officer may rescind the prohibition entirely or rescind it with limitations. The Animal Control Officer also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the Animal Control Officer rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the City or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Animal Control Officer may permanently prohibit the person from owning a dog in this state.

Sec. 6-150. Destruction of Dog in Certain Circumstances.

(1) Circumstances. Notwithstanding Sections 6-146 to 6-149, a dog may be ordered destroyed in a proper and humane manner by the Animal Control Officer if the dog:

- A. inflicted substantial or great bodily harm on a human being on public or private property without provocation;
- B. inflicted multiple bites on a human being on public or private property without provocation;
- C. bit multiple human victims on public or private property in the same attack without provocation; or

D. bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

(2) Hearing. The Animal Control Officer may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial hearing officer.

Sec. 6-151. Penalty.

(1) Any person violating the provisions of Sections 6-146 or 6-147, shall, upon conviction thereof, be guilty of a misdemeanor and shall be subject to penalties specified for misdemeanors in Minn. Stat. § 609.03, as amended from time to time. Each day that a violation exists shall constitute a separate offense.

(2) It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous dog, to fail to renew the registration of a potentially dangerous or dangerous dog, to fail to account for a dangerous dog's death or change of location where the dog will reside, to sign a false affidavit with respect to a dangerous dog's death or change of location where the dog will reside, or to fail to disclose ownership of a dangerous dog to a property owner from whom the person rents property.

(3) A person who is convicted of a second or subsequent violation of paragraphs (1) or (2) is guilty of a gross misdemeanor.

(4) An owner who violates Minn. Stat. § 347.542 or Section 6-149 of this Code is guilty of a gross misdemeanor.

(5) Any household member who knowingly violates Minn. Stat. § 347.542, subdivision 2, or Section 6-149 of this Code is guilty of a gross misdemeanor.
(Ord No. 800, 5-10-2011)

Article 8. Fowl and Bees

Sec. 6-200. Purpose.

The purpose of this Article is to establish reasonable regulations for the keeping of fowl and bees throughout the City. The City Council recognizes there is a desire to engage in more sustainable food practices. However, the keeping of certain types of fowl can create unintended negative impacts, including noise and odors that are not typical of urban environments. The regulations within this Article aim to address the negative impacts that result from keeping fowl within an urban environment. Additionally, in recognition that bees have health implications for certain individuals, this Article establishes minimum hive standards and notification requirements.

Sec. 6-201. Number of Fowl.

The keeping of fowl shall not exceed a total of six per property on all property throughout the City.

Sec. 6-202. Flock Notification.

Any property owner who keeps fowl shall notify the City's Code Compliance Inspector, or designee, of all flock locations within the City.

Sec. 6-203. Outdoor Butchering.

No outdoor butchering of fowl is permitted.

Section 6-204. Minimum Coop Size.

Under no circumstances shall coop size be less than three (3) square feet per fowl kept.

Section 6-205. Coop Standards.

All coops shall be:

- (1) Clean and sanitary;
- (2) Made of sound construction and craftsmanship;
- (3) Be maintained so they remain structurally sound;
- (4) Protect the fowl from the weather;
- (5) Be located in the rear/back yard and meet the most restrictive of the following setbacks:
 - a. 5 feet from side and rear property lines.
 - b. 25 feet from residences on adjacent and nearby lots.
 - c. A setback from adjacent and nearby residences a distance at least equal to the distance the coop is placed from the residence on the subject property.
 - d. 25 feet from a lake, wetland, pond, stream, tributary, drainage ditch or the like.

- e. All other structure or building setbacks required under the Zoning Code.
- (6) Not be located inside a primary residence or place of business; and
- (7) Follow best practices for nests.

Section 6-206. Restraining Fowl.

All fowl shall be prohibited from running at large off of the owner's property.

Section 6-207. Roosters.

All roosters are prohibited.

Section 6-208. Hive Notification.

Any property owner who keeps bees shall notify the City's Code Compliance Inspector, or designee, of all hives the person intends to establish within the City.

Section 6-209. Water Source Required.

Any property owner who keeps bees shall provide and maintain a nearby, designated water source.

(Ord. 834, 5-26-2015)

Editor's Notes
City Code-Chapter 6
Animals and Fowl

Introduction. The main purpose of this Chapter is to regulate the keeping of dogs and cats.

General Comments. As with all other parts of the codification, the language in this Chapter has been simplified and made gender neutral.

Also, the Articles have been rearranged so that "Large Animals" is the last Article. Consequently, all of the Articles dealing with dogs and cats now will follow one another.

New Materials 6-3.1. Humane Disposal. Expanded the City's ability to humanely dispose of an animal to include diseased animals as well as vicious animals.

Confinement and Cleanup - 6-16 - 6-17. Previously, a separate Article covered confinement and cleanup for dogs and then this same information was repeated in another Article for cats. This edition of the codification combines these sections into one Article.

April 24, 2000

Margaret A. Egan
Finance Director/
City Clerk